

REMARKS

Claims 1 and 49, 51 and 53-75 were pending in the application. Claims 55-58 have been cancelled, and claims 1, 61, 64 and 65 have been amended by the present amendment. Upon entry of the present amendment, claims 1, 49, 51, 53, 54 and 59-75 will be pending. Support for these amendments can be found throughout the specification and claims as originally filed. Accordingly, no new matter has been added.

The claim amendments requested herein should in no way be construed as acquiescence to any of the rejections and have been made solely to expedite prosecution of the application. Applicants reserve the right to pursue the claims as originally filed and/or prior to amendment herein in this or a separate application(s).

Rejections under 35 U.S.C. §112, first paragraph

Under Section 4 of the Office Action, claims 1, 49, 51 and 53-75 were rejected on the ground that

the specification does not reasonably provide enablement for peptides comprising variants comprising substitutions of spacer groups within SEQ ID NO:2, or variants comprising substitutions of two basic residues of SEQ ID NO:2 with non-basic amino acids, or the reversal of less than seven amino acids of SEQ ID NO:2.

With respect to peptides containing a “spacer group,” this rejection is respectfully traversed. However, solely in the interest of expediting prosecution, Applicants have amended claim 1(e) and cancelled claims 55-58 to remove reference to the embodiments of the invention containing spacer groups. Applicants specifically reserve the right to pursue this subject matter in a continuing application.

The rejection is further traversed with respect to the grounds for rejection which encompasses peptides in which one or more amino acid residues of SEQ ID NO:2 are replaced by naturally or non-naturally occurring amino acid residues or in which two or more amino acids are reversed. The Office Action asserts that such peptides are not enabled because “the specification does not qualify the particular residues which are tolerant to amino acid substitutions, or address the preservation of basic amino acid residues in order to preserve the amphipathicity pattern and the concomitant membrane

translocating ability of the peptides.” Applicants respectfully point out that these assertions are incorrect. At least at page 7, line 22 to page 8, line 16, of the instant specification does indeed teach the particular amino acids in SEQ ID NO:2 which are tolerant to homologous and non-homologous substitution. Moreover, Example 2 at page 32 of the instant specification provides at least 6 peptides in which two or more amino acids within SEQ ID NO:2 have been substituted and/or reversed, and which were shown to be internalized into cells. Thus, the teachings and working examples of the specification clearly provide sufficient guidance to enable one of ordinary skill to make and use other peptides within the scope of the claimed invention without undue experimentation. Accordingly, withdrawal of this rejection is respectfully requested.

Under Section 5 of the Office Action, claims 1, 49, 51 and 53-75 were rejected for failing to comply with the written description requirement on the ground that the specification does not provide support for the limitation "wherein one to three amino acid residues are replaced by a naturally occurring amino acid residue."

This rejection is respectfully traversed. Support for the replacement of one to three amino acids may be found in the specification at least at page 7, line 22 to page 8, line 16, and in Example 2 at page 32. Specifically, Example 2 discloses working examples of peptides in which one to three amino acids of SEQ ID NO: 2 have been altered. Therefore, Applicants respectfully submit that the specification adequately complies with the written description requirements for the presently claimed subject matter, and reconsideration and withdrawal of this rejection is respectfully requested.

Double-Patenting Rejections

Under Section 7 of the Office Action, the rejection of claims 1 and 49-75 in view of claims 1-29 of U.S. Patent No. 6,472,507 was maintained because the Terminal Disclaimer filed with Applicants' response to the last Office Action was not received by the USPTO. A copy of this Terminal Disclaimer is enclosed herewith, thus rendering this rejection moot.

SUMMARY

In view of the above amendment and remarks, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. CCI-010CN from which the undersigned is authorized to draw.

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Respectfully submitted,

By 

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